

Tracking Federal Regulatory Initiatives

Regulatory Affairs

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Assessment of Financial Institutions Regulations, amendment

The proposed amendments would increase the minimum assessment for cooperative credit associations (Coops), life insurance companies and property and casualty insurance companies to \$5,000 in fiscal year 1998/1999 and to \$10,000 in fiscal 1999/2000, up from the current \$1,000.

For the fiscal 1996/1997 assessment year, 130 of the 221 property and casualty insurance companies paid less than the proposed \$10,000 minimum assessment, with 72 of those paying only the current minimum assessment of \$1,000. On the life insurance companies side, 65 of the 123 companies would be affected by the proposed increase. Currently, only 39 life insurance companies pay the \$1,000 minimum assessment. Only one of the seven COOPs, which currently pays an assessment of approximately \$7,000, would be affected by the proposed increase to \$10,000.

The Office of the Superintendent of Insurance (OSFI) is also proposing that the minimum assessment for fraternal benefit societies be increased from the current \$100 to \$500 in fiscal year 1998/1999 and to \$1,000 for fiscal year 1999/2000.

Office of the Superintendent of Financial Institutions Act, paragraph 23(3)

Published in Canada Gazette November 21, 1998

for Pre-Publication in Part I, Canada Gazette

Fifteen of the fraternal benefit societies pay the minimum \$100 assessment and 22 of the 27 fraternal benefit societies would be affected by an increase to \$1,000.

Contact: Jack Heyes, Chairman, User Pay Task Force, Office of the Superintendent of Financial Institutions, 121 King Street W, P.O. Box 39, Toronto, Ontario, M5H 3T9. Tel: 416-973-8529; Fax: 416-973-8966.

Related Party Transactions (Trust and Loan Companies) Regulations, amendment

The proposed amendments would permit a trust or loan company to enter into prescribed transactions with its foreign bank parent or with a financial institution controlled by that foreign bank.

The regulatory amendment contains a section, similar to that in the *Related Party Transactions (Banks) Regulations*, which permits foreign bank subsidiaries to enter into prescribed transactions, such as deposits, with its foreign bank parent or with a financial institutions controlled by that foreign bank.

The main purpose of the proposed amendment is to ensure that trust and loan companies controlled by a foreign bank are on a level playing field with Canadian foreign bank subsidiaries.

Contact: Charles P. Johnston, Regulations Officer, Legislation and Precedents Division, Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario, K1A 0H2. Tel: 613-990-7472; Fax: 613-998-6716.

Service Charges (Office of the Superintendent of Financial Institutions) Regulations

The proposed amendments would permit the implementation of a user pay regime and prescribe user fees for some of the more significant activities of the Office of Superintendent of Financial Institutions (OSFI).

Based on the recommendations of a task force on a modified user pay system, OSFI is proposing a number of changes regarding how it recovers its costs from federally regulated financial institutions (FRFIs). This will result in institutions and non-regulated third parties that place greater demands on OSFI's resources paying a higher proportion of OSFI's annual operating costs via direct user fees.

The proposed user pay fees were determined based on in-house analyses of time spent on activities that lend themselves to fees for service and having regard, where possible, to fees charged by other regulatory agencies for similar services. The adoption of such an approach will modify OSFI's current practice of recovering its annual operational costs from institutions or private pension plans solely from formula-based annual assessments.

The first phase of the new fee regime, scheduled for implementation on January 1, 1999, will introduce the fees for certain user pay activities, including the processing of applications or requests that are relatively straightforward in nature and, for administrative simplicity, are to be paid up front at the time the requests or applications are filed with OSFI.

For complex user pay activities, such as applications involving large mergers or incorporation, OSFI will seek to enter into a separate contractual cost recovery arrangement with the institution or third party making the application. As a result of consultations, OSFI has agreed that prior to the filing of such an application, the appropriate cost structure (flat fee or hourly rate) would be agreed to in advance by OSFI and the applicant.

Trust and Loan Companies Act, sections 488 and 531

Published in Canada Gazette November 21, 1998

Office of the Superintendent of Financial Institutions Act, section 23.1

Published in Canada Gazette November 21, 1998

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

As part of Phase II, OSFI will implement fees for a broader range of user pay services for FRFIs and third parties, as well as similar user fees for services undertaken in respect of private pension plans. OSFI will also conduct a full review of the current assessment methodologies used to allocate its annual supervisory costs to FRFIs and pension plans. OSFI will also contemplate the introduction of user fees or assessment surcharges to enable it to recover additional supervisory costs associated with enhanced supervision directly from “problem institutions”.

OSFI expects to recover, in the long-term, between 20 and 25 percent (\$8 to \$10 million per annum based on 1997/98 experience) of its annual supervisory costs borne by FRFIs.

Under the proposals, any fee revenue collected from institutions in a given industry will be deducted from OSFI’s annual supervisory costs allocated to that industry. The residual balance of the supervisory costs will continue to be recovered from institutions in each industry using a formula-based annual assessment.

Contact: Jack Heyes, Chairman, User Pay Task Force, Office of the Superintendent of Financial Institutions, 121 King Street W, P.O. Box 39, Toronto, Ontario, M5H 3T9. Tel: 416-973-8529; Fax: 416-973-8966.

Exempt from Pre-Publication and Approved

Statutory Authority

Order Repealing the National Animal Health Program Cost Recovery Fees Order (SOR/98-561, OIC 1998-2020)

This Order repeals the current *National Animal Health Cost Recovery Fees Order*.

The Fees fixed in the current Order are identical to those that were put in place by the previous Ministerial Fees Order except for two related changes.

The Order comes into effect November 18, 1998.

Contact: Dr B. Peart, Animal Health and Production Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342.

Financial Administration Act, paragraphs 19(1)(b) and 19.1(b)

To be published in Canada Gazette December 9, 1998

The Jacques-Cartier and Champlain Bridges Inc. Regulations (SOR/98-568, OIC 1998-2042)

These regulations allow two bridge corporations – The Jacques-Cartier and Champlain Bridges Inc. and The Seaway International Bridge Corporation, Ltd. – to continue to operate as they currently do once the St. Lawrence Seaway Authority Act (SLSA Act) is repealed, with the same powers they currently have under the SLSA Act.

The two bridge corporations were established as subsidiaries of the St. Lawrence Seaway Authority. The Seaway Authority is being commercialized.

The Order comes into effect December 1, 1998.

Contact: Bruce Bowie, Executive Director, Marine Policy Reform, Transport Canada, Place de Ville, Tower C, 20th Floor, Ottawa, Ontario, K1A 0N5. Tel: 613-998-0702; Fax: 613-993-1845.

Canada Marine Act, section 141

To be published in Canada Gazette December 9, 1998

Exempt from Pre-Publication and Approved

Statutory Authority

Order amending the Reproduction of Federal Law Order (SI/98-113, OIC 1998-2026)

This Order harmonizes the French version of the Order with the English version and makes technical amendments to the French version.

More specifically, the Order replaces the French version of Order in Council P.C. 1996-1995 of December 19, 1996, with the following:

“Attendu que, pour une société démocratique, il est d’une importance fondamentale que les textes constituant son droit soient largement diffusés et que ses citoyens y aient libre accès;

Attendu que le gouvernement du Canada souhaite faciliter l’accès à la législation fédérale et aux décisions des tribunaux de constitution fédérale en autorisant leur reproduction sans frais ni permission,

À ces causes, sur recommandation de la ministre du Patrimoine canadien, du ministre de l’Industrie, du ministre des Travaux publics et des Services gouvernementaux, du ministre de la Justice et du Conseil du Trésor, Son Excellence le Gouverneur général en conseil prend le Décret sur la reproduction de la législation fédérale et des décisions des tribunaux de constitution fédérale, ci-après.

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Toute personne peut, sans frais ni demande d’autorisation, reproduire les textes législatifs fédéraux, ainsi que leur codification, et les dispositifs et motifs des décisions des tribunaux judiciaires et administratifs de constitution fédérale, pourvu que soient prises les précautions voulues pour que les reproductions soient exactes et ne soient pas présentées comme version officielle.”

Relief Payments made following the 1998 Ice Storm Remission Order (SI/98-119, OIC 1998-2047)

This Order remits amounts payable under the *Income Tax Act*, the *Canada Pension Plan* and the *Employment Insurance Act* as a result of an amount paid or advanced in 1998 as relief for loss because of the ice storm in January 1998 which caused extended power outages and extensive damage in Ontario, Quebec, New Brunswick and Nova Scotia.

The remission covers payments or advances:

“in respect of which an amount is required to be included in the income from employment of a taxpayer by virtue of paragraph 6(1)(a) or (b) or subsection 6(9) of the *Income Tax Act*, where the employee deals at arm’s length with the employer, the payment or advance is voluntary, reasonable in the circumstances and bona fide and does not exceed the damages suffered by the employee net of any other compensation the employee receives or is entitled to receive, is not based on employment factors such as performance, position or years of service or the fact that the employee is a shareholder and is not made in exchange for past or future services or to compensate for loss of income, plus relevant interest and penalties, on condition that the employee waive any benefit or right accruing under the said Acts as a result of the payment or advance.”

Prerogative

To be published in Canada Gazette December 9, 1998

Financial Administration Act, subsections 23(2) and (2.1)

To be published in Canada Gazette December 9, 1998

Pre-Published and Approved No comments or changes

Statutory Authority

**Letter Mail Regulations, amendment (SOR/98-554, OIC 1998-2014);
Letter Mail Regulations, amendment (SOR/98-555, OIC 1998-2015);
Undeliverable and Redirected Mail Regulations, amendment (SOR/98-556, OIC 1998-2016); Non-mailable Matter Regulations, amendment (SOR/98-557, OIC 1998-2017)**

Canada Post Corporation Act, section 9

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The amendment increases by 1 cent the postal charge under the basic letter rate and standard business letters weighing up to 30 g., effective January 1, 1999.

The amendments will also increase the basic domestic oversized letter rate by 2 cents, to \$0.92 (an increase of 2.2 percent) for domestic oversized letter weighing 1 to 100 g.

All other domestic letter rates will be increased by an average of 2.1 per cent.

As examples, non-coded mail weighing 30 g or less would be 59 cents and more than 30 g but not more than 50 g would be 84 cents. Oversized mail weighing more than 100 g but not more than 200 g would cost \$1.50 and weighing more than 200 g but not more than 500 g would cost \$2.

Technical amendments are also made to the *Non-mailable Matter Regulations* and the *Undeliverable and Redirected Mail Regulations* to accommodate other changes, in response to changes to the *Bankruptcy and Insolvency Act* and the recent enactment of the *Controlled Drugs and Substances Act*.

The previous rate increase was in August, 1995.

Contact: Susan McCluskey-Ilkmen, Corporate Secretariat, Canada Post Corporation, 2701 Riverside Drive, Suite N1150, Ottawa, Ontario, K1A 0B1. Tel: 613-734-7973; Fax: 613-734-3331.

Regulations Amending Certain Regulations Made under the Canada Post Corporation Act (Miscellaneous Program), amendment (SOR/98-558, OIC 1998-2018)

Canada Post Corporation Act, subsection 19(1)

To be published in Canada Gazette December 9, 1998

The amendments to these Regulations are of a technical nature and correct minor errors in format, syntax, spelling and punctuation; correct typographical errors, anomalies and renumbering; correct inconsistencies between the English and French versions of the Regulations; and correct minor drafting deficiencies.

The amendments include changes in response to observations received from the Standing Joint Committee for the Scrutiny of Regulations: *International Letter-post Items Regulations*, Subparagraph 20(b)(ii) of the French version of the Regulations is modified to make it consistent with the English version.

The affected regulations are: *Armed Forces Postal Regulations* (paragraph 9(2)(a)); *Special Services and Fees Regulations* (Schedule VII); *Undeliverable And Redirected Mail Regulations* (section 2, 14 and 18); *Mail Receptacles Regulations* (subparagraph 2(5)(d)(i) of Schedule I to the French version and paragraph 2(b) of Schedule VI to the French version); *Postage Meter Regulations* (section 14 of the French version and subsection 19(2) of the French version); *International Letter-post Items Regulations* (paragraphs 7.1(1)(a) and (b) of the French version; paragraph 7.1(2)(a) of the French version; paragraph 7.1(3)(b); subparagraph 20(b)(ii) of the French version).

Contact: Susan McCluskey-Ilkmen, Corporate Secretariat, Canada Post Corporation, 2701 Riverside Drive, Suite N1150, Ottawa, Ontario, K1A 0B1. Tel: 613-734-7973; Fax: 613-734-3331.

Pre-Published and Approved No comments or changes

Statutory Authority

Special Services and Fees Regulations, amendment (SOR/98-559, OIC 1998-2019)

The amendments amalgamate the three existing domestic registered services into one and eliminate the Money Packets and domestic Security Registered offerings, effective January 1, 1999.

More specifically, the existing Registered Mail (commercial and retail) and Certified Mail will be replaced by a single domestic Registered Service which has simplified features, options and pricing. All Registered items will be processed in a separate processing stream (as would international and U.S. registered mail).

The new domestic Registered service will offer legal proof of mailing, legal proof of delivery, automated delivery confirmation for bar-coded items, and a basic service indemnity of \$100. Customers will also have the option of purchasing a hard copy "printout" of the delivery information for \$5.00. This printout is competitively priced to offset the cost of providing the service, and will replace the current manual Acknowledgment of Receipt Card. A "Hold for Pick Up" option will be offered free of charge.

Amendments to the Regulations include:

- a \$0.85 increase to \$4.00 (27 percent) on the price of the new Registered service for delivery in Canada;
- revoking the rate for Acknowledgment of Receipt for domestic registered items at the time of posting;
- revoking Money Packets.

Contact: Susan McCluskey-Ilkmen, Corporate Secretariat, Canada Post Corporation, 2701 Riverside Drive, Suite N1150, Ottawa, Ontario, K1A 0B1. Tel: 613-734-7973; Fax: 613-734-3331.

International Letter-post Items Regulations, amendment (SOR/98-560, OIC 1998-2020)

These amendments to Regulations, effective January 1, 1999, will increase the rates of postage for most International Letter-post Items.

Rate adjustments include the following among others:

- a \$0.03 increase to \$0.55 (5.8 percent) for letters, cards and postcards up to 30 g destined to the USA and up to 20 g destined to Saint Pierre and Miquelon;
- a \$0.05 increase to \$0.95 (5.6 percent) for letters, cards and postcards up to 20 g to other foreign destinations;
- a \$0.05 increase to \$0.95 (5.6 percent) for aerogrammes;
- an average increase of 5.8 percent for international letter-post items.

Contact: Susan McCluskey-Ilkmen, Corporate Secretariat, Canada Post Corporation, 2701 Riverside Drive, Suite N1150, Ottawa, Ontario, K1A 0B1. Tel: 613-734-7973; Fax: 613-734-3331.

Assessment of Financial Institutions Regulations, amendment (SOR/98-563, OIC 1998-2021)

This amendment extends for two years the current regulations used by the Superintendent of Financial Institutions to assess the expenses for supervising banks and trust and loan companies (BTL).

Canada Post Corporation Act, subsection 19(1)

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Canada Post Corporation Act, subsection 19(1)

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Office of the Superintendent of Financial Institutions Act, subsection 23(3)

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Pre-Published and Approved No comments or changes

Statutory Authority

In an assessment bulletin, dated September 15, 1997, OSFI advised all BTL companies of its plan to extend the present Regulations for one year. As a result of the time elapsed due to industry consultations regarding the introduction of a user pay system, OSFI is now required to extend the present Regulations for two more years.

At present, the Regulations divide BTL companies into 10 tiers based on average assets. Each institution pays a basic assessment amount relative to the tier in which it belongs. However, a loan company that is a subsidiary of a bank pays a basic assessment of \$10,000 regardless of its size. The balance, which is the total supervisory expense for BTL companies minus the total amount raised from basic assessments, is subsequently prorated to all BTL companies based on their average total assets.

The Regulations also specify that these rules are effective for three fiscal years only (i.e., 1994/95 to 1996/97). The intention was to review the Regulations and make any necessary amendments subsequent to fiscal 1996/97; however, consultations require more time to make these amendments.

The Regulations come into effect November 19, 1998.

Contact: Charles P. Johnston, Legislation Officer, Legislation and Precedents Division, Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario, K1A 0H2. Tel: 613-990-7472; Fax: 613-998-6716.

Income Tax Regulations, amendment (Part LXXXVI) (SOR/98-571, OIC 1998-2046)

Income Tax Act, section 221

The amendment changes several parts of Part LXXXVI of the Regulations that deals with the tax on large corporations.

More specifically, the changes:

- add 10 companies to the list of prescribed financial institutions;
- correct a cross-referencing error in section 8605 of those regulations which resulted, when determining the amounts considered in computing the taxable capital employed in Canada of a life insurance corporation, in a double counting of long-term debt; and
- modify the application of provisions pertaining to the previous prescriptions of corporations as financial institutions.

The regulations, among other things, list the companies that, while not meeting the "generic" definition of a financial institution, which includes banks, insurance companies and stockbrokers, are so similar to those corporations that treatment as financial institutions is warranted.

More specifically, the proposal amends Section 8604 of the Regulations to add the following: CU Credit Inc.; Household Commercial Canada Inc.; Canadian Home Income Plan Corporation; Hudson's Bay Company Acceptance Limited; Bombardier Capital Ltd.; Trans Canada Credit Corporation; Norwest Financial Canada, Inc.; Norwest Financial Capital Canada, Inc.; GE Capital Canada Limited; and GE Capital Canada Retailer Financial Services Company.

The amendments would apply to taxation years beginning after May 1998.

Contact: Robin O. Maley, Tax Legislation Division, Department of Finance, L'Esplanade Laurier, East Tower, 17th Floor, 140 O'Connor Street, Ottawa, Ontario K1A 0G5. Tel: 613-992-4859.

To be published in Canada Gazette December 9, 1998

Ministerial Orders Approved

Statutory Authority

Order Repealing the National Animal Health Program Cost Recovery Fees Order (SOR/98-561)

This Order repeals the *National Animal Health Cost Recovery Fees Order*.

The Order comes into effect November 18, 1998.

Contact: Dr B. Peart, Animal Health and Production Division, Canadian Food Inspection Agency, 59 Camelot Drive, Nepean, Ontario, K1A 0Y9. Tel: 613-225-2342.

Financial Administration Act, paragraphs 19(1)(b) and 19.1(b)

To be published in Canada Gazette December 9, 1998

National Energy Board Rules of Practice and Procedure, 1995, amendment (SOR/98-573)

This amendment substitutes an alternative method for serving documents pertaining to a National Energy Board proceeding upon the Attorney General of Canada.

The Order comes into effect November 23, 1998.

Contact: Peter W. Noonan, Counsel, Legislative Matters, National Energy Board, 444 Seventh Ave. S.W. Calgary, Alberta, T2P 0X8. Tel: 403-299-3552; Fax: 403-292-5503; e-mail: pnoonan@neb.gc.ca.

National Energy Board Act, section 8

To be published in Canada Gazette December 9, 1998

Airport Vehicle Parking Charges Regulations, amendment (SOR/98-562)

The amendments bring existing parking rates into line with those for similar parking facilities and moderate demand for vehicle parking at certain facilities.

The amendment also clarifies the Regulations to ensure that they only apply to parking services, including those related to MPs, supreme court justices and diplomatic agents or consular officers, provided only at airports operated by the Minister of Transport.

The parking charges in the schedule will now include the Ontario Retail Sales Tax for Ontario airports and the Harmonized Sales Tax for Atlantic airports in Nova Scotia, New Brunswick, and Newfoundland.

These amendments will result in an estimated gross revenue increase of approximately \$570,000 per annum for the applicable airports, including new taxes being collected. The estimated increase in total revenue ranges from 10 to 120 percent at the applicable airports.

The amendment comes into effect November 19, 1998.

Contact: Anne Bergeron-Gravelle, Leased/Transferred Property, Programs and Divestiture, Department of Transport, Tower C, Place de Ville, Ottawa, Ontario, K1A 0N8. Tel: 613-998-5162; Fax: 613-990-8889.

Aeronautics Act, subsection 4.4(2); *Ministerial Regulations Authorization Order*, section 2

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